

Each of Claims 2, 3 and 4 include the step of "(a) pre-recording a first speech portion of a telephone call received by an agent." As detailed in Applicant's Request for Declaration of Interference, mailed on January 22, 2004, step (a) in each of Claims 2, 3 and 4 is supported in Applicant's specification by page 26, lines 21-23; and throughout the specification. Page 26 lines 21-23 state that "The alarm could also be connected to a recording device which would begin recording the conversation when the alarm was set off, *if the conversation is not already being recorded.*" (emphasis added) Clearly, lines 22 and 23, on page 26 indicate that the conversation may already be being recorded. In addition, other portions of the specification describe pre-recording a voice signal including page 34, lines 20-23 and page 57, lines 2-6, among others. Clearly, pre-recording a first speech portion of a telephone call received by an agent is supported by the specification.

Each of Claims 2, 3 and 4 also include the step of "(b) determining whether said first speech portion satisfies the monitoring condition, and, if so:." As also discussed in Applicant's Request for Declaration of Interference, mailed on January 22, 2004, step (b) in each of Claims 2, 3 and 4 is supported in Applicant's specification by page 26, lines 17-21, and throughout the specification. Page 26 lines 17-21 state "As another option, the indication of the level of nervousness may include an alarm that is set off when the level of nervousness goes above a pre-determined level. The alarm may include a visual notification on a computer display, an auditory sound, etc. to alert an overseer, the listener, and/or one searching for fraud." Page 25 lines 23-28 state: "The voice signals are analyzed during the business event in operation 702 to determine a level of nervousness of the person....In operation 704, an indication of level of nervousness is output, preferably before the business event is completed so that one attempting to prevent fraud can make an assessment whether to confront the person before the person leaves." In addition, other portions of the specification also describe step (b) that include page 35, lines 27-29, and page 36, lines 12-16,

among others. Accordingly, determining whether the first portion satisfies the monitoring condition is supported.

It appears from the Office Action that the Examiner has read an additional limitation(s) into the claims that is not otherwise present. The Examiner has indicated that "a portion of the conversation is pre-recorded and that portion is tested before a second portion is recorded." Each of Claims 2, 3 and 4 disclose that the first speech portion is pre-recorded, and it is determined whether the same first speech portion satisfies a monitoring condition. Hence, there appears to be no feature or other indication in any of the Claims that the first speech portion is first recorded and the recording is then analyzed to determine if a monitoring condition has been satisfied. In fact, Claims 2, 3 and 4 may be construed such that the pre-recording and the analysis could occur simultaneously and be performed completely independently.

In addition, each of the Claims do not disclose that the first portion is recorded, recording is halted, the first speech portion is used to determine if a monitoring condition is satisfied, and if so, recording of the second portion of the speech portion commences. Instead, each of the Claims indicate that the first speech portion (which is also pre-recorded) is used to determine if a monitoring condition is satisfied. Thus, the method could possibly be interpreted to include recording the first speech portion and continuing on to record the second speech portion as one continuous recording, so long as the monitoring condition is satisfied.

For at least the foregoing reasons, Claims 2-4 are supported by the specification and meet the written description requirement pursuant to 35 U.S.C. § 112, first paragraph. Since the Claims 2-4 are supported and meet the written description requirement, US Patent No. 6,542,602 to Elzar is not prior art, and the Examiner's 35 U.S.C § 102(e) rejection is moot. Applicant respectfully requests the Examiner to withdraw the 35 U.S.C. § 112, first paragraph rejection, and the 35 U.S.C. § 102(e) rejection of claims 2-4.

In addition, Applicant respectfully requests the Examiner to declare an interference between this application and U.S. Patent No. 6,542,602, which issued to Elazar on April 1, 2003.

Should the Examiner deem a telephone conference to be beneficial in expediting declaration of the interference, the Examiner is invited to call the undersigned attorney at the telephone number listed below. No fees are believed to be due at this time, however, should any fees be deemed required, please charge such fees therefor to Deposit Account No. 23-1925.

Respectfully submitted,



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